IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1821 OF 2005

Kamlakar Pandya Tandel & Others .. Petitioners

Vs

The State of Maharashtra & Others .. Respondents

Shri N.V.Pradhan with Mr.B.Lobo for the petitioners.
Shri N.P.Deshpande AGP for the State.

CORAM : V.G.PALSHIKAR &
D.B.BHOSALE, JJ.

DATED : 16TH AUGUST 2005.

P.C.:

. Heard learned counsel for the parties.

2. By this petition, the petitioners have made the following prayers:

> "(a) For a Writ of Mandamus or any other appropriate writ, order or direction in the like nature be issued directing the Respondents Nos.1 to 5, cited in the Writ Petition not to evict the Petitioners from their lands which are being cultivated by them personally as shown in the 7/12 extracts and Land Grant annexed hereto at Exhibit B1 to B10.
>
> (b) Pending the hearing and final disposal of this Petition the Respondents Nos.1 to 5 be restrained by Order and Injunction of this Hon'ble Court from evicting the petitioners from their lands being cultivated and shown in Land Records as mentioned in Exhibit B1 to B10".

3. Notice as to why the petition be not disposed

of at the admission stage was received and the affidavit of Mr.Ramakant Patil, Tahasilkar, Palghar has been filed answering the contentions raised in the petition. Paragraph 3 of the reply reads as under:

> "3. It will not be out of place to mention here that the concerned Survey No.136 is situated at Dahisar, Tal.Palghar. Total Survey No. Admeasures about 140 Hectors. The entire survey No. belongs to the Government. It is no doubt true that the Project Affected Persons of Nuclear Power Corporation Ltd. (NPCL) Project would be rehabilitated in this survey No. However, the Government is rehabilitating the Project Affected Persons in 98 Hector, out of the entire survey number. No doubt, the Petitioners land fall in the said portion of 98 Hector. However, by consent of the petitioners, they have been given alternate land in the very same survey number. In this regard, it is pertinent to note that Tabe Pavati has been executed in their favour. The Government has also issued possession receipt in their favour. The Government has also issued possession receipt in favour of the petitioner. Hereto annexed and marked as Exhibit "1" is the copy of the said Tabe Pavati and Exhibit "B" is the consent given by the petitioner".

4. In paragraph 8 another specific statement is made which reads as under:

> "8. With reference to para 6 of the Writ Petition, I say that the Petitioner Nos.3, 4, 6, 7, 9's land is not acquired or evicted, they are still in possession of their land. It is true that while leveling the said land (Dahisar Survey No.136(P) for rehabilitation, it was found that continuous stretch of land more suitable for rehabilitation. Therefore, as the part of adjustment, with the consent of petitioner Nos.1, 2, 5, 8, 10 their lands under cultivation, were taken for rehabilitation. But no force and no hardship was brought to petitioner No.1, 2, 5, 8, 10.

> Even possession receipts signed by them except No.10 who was given to alternate land in two pieces admeasuring 0.42 & 0.20 H.R. Out of which petitioner 10 is cultivating 0.42 Ghuntas (he is cultivating the alternate land) are obtained. At that time of adjustment, no objection was raised by them".

5. It will thus be seen factually with the consent of the petitioner, the petitioner was given alternate land in the same survey number. This being factual position, in our opinion, there is no cause presently remaining with the petitioner. If after factually verifying the possession receipts - Tabe Pavati any grievance remains to the petitioner it shall be open for the petitioner or person concerned to agitate before the appropriate forum. The petition is disposed of accordingly.

(D.B.Bhosale, J.) **(V.G.Palshikar, J.)**